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*Via ECF*

October 5, 2021

Hon. Katherine Polk Failla  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square, Room 618  
New York, NY 10007

**MEMO ENDORSED**

Re: **Diego Beekman Mut. Housing Ass'n Housing Dev. Fund Corp. v. Liberty Mut. Ins. Co., and American Economy Insurance Co.; Case No. 1:20-cv-10915**

Dear Judge Failla:

This firm represents the defendants in this matter. I write on behalf of my clients and on behalf of Plaintiff Diego Beekman Mutual Housing Association Housing Development Fund Corp., to respectfully and jointly request an adjournment of the Status Conference scheduled for October 7, 2021 at 10:00 am, and for an extension of the time to complete fact and expert discovery, up to and including December 23, 2021.

As we have previously advised the Court, the parties have been and are continuing to work collaboratively on narrowing their differences, and in doing so, trying to contain costs, particularly the expense of expert report preparation and expert depositions, and have instead been exchanging information to facilitate settlement discussions, including spreadsheets addressing on an item-by-item basis the parties' differences over the hundreds of individual components of the claim for damages. This case involves a huge volume of fire damage and construction-related documents, so this has been a process.

The parties have been working to resolve the dispute in this action, as well as another dispute also pending in S.D.N.Y. before Judge Daniels. Both matters involve a dispute over the amount to be paid under an insurance policy for damage from fire. The plaintiffs had two fires, and there are two lawsuits as a result. The principal difference

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between the parties in each case is over issues of loss measurement, code upgrades, and the repairs made after the fires. The parties are looking to resolve both cases, and at first had thought a joint session would be productive, but given the complexity and numerous items over which the parties differ, the parties concluded that separate sessions were needed. The parties have scheduled a 4-hour Zoom conference for tomorrow in the suit that is pending before Judge Daniels, and will have a similar session on the dispute in this action as shortly afterwards as schedules will allow. The decision-makers and those with detailed knowledge on both sides (particularly the parties' respective consultants) will participate in these Zoom sessions, including the one set for tomorrow.

*Reasons Why this Process is not Yet Completed.* Counsel had begun preparing for these sessions in August but the preparation and exchanges of meaningful documentation of the parties' respective positions has taken considerable time. When the parties last wrote to the Court in August, we had expected that this process of preparing for, setting and conducting these Zoom meetings would move more swiftly, but there are important reasons beyond the challenge presented by the complexity of the dispute and volume of documentation involved, as to why the process has taken as long as it has and why more time is being sought. Some were "good news" events, while other were not.

First, a principal consultant to the defendant was married and had a honeymoon at the end of this summer. Second, my colleague, Cara Vecchione, left our firm in the past few weeks, and she was a key member of the team defending these claims. Third, there were several serious health issues that arose with my parents during August and September, which has necessitated my attention and a new residential arrangement for them. Finally, during the past month, I have learned of my own health issue, which will require two surgeries scheduled for November 1<sup>st</sup> and 2<sup>nd</sup>.

The parties have not been dilatory or disinterested in resolving their dispute, but continue to work towards resolution and continue to try and do so at an optimal amount of cost so that the discovery process does not make settlement more difficult.

Accordingly, the parties respectfully request an extension of all discovery, including disclosure of experts and depositions of experts, until December 23, 2021.

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This request, which is made jointly, is the third joint request for an extension of discovery deadlines. The parties' prior joint request was granted by Order dated August 9, 2021. (ECF No. 30).

If the Court would like any additional information and/or is not inclined to grant this joint request based on the information provided in this letter, the parties respectfully request a telephonic conference to update the Court and respond to any questions.

Respectfully Submitted,



Gerald P. Dwyer, Jr.

cc: Counsel (via ECF)

Application GRANTED. The Court will grant a final extension of the time for the parties to complete discovery in this case, until December 23, 2021. No further extensions of the discovery period will be granted.

Furthermore, the conference scheduled for October 7, 2021, is hereby adjourned to January 11, 2022, at 2:00 p.m.

The Clerk of Court is directed to terminate the pending motion at docket entry 34.

Date: October 6, 2021  
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE